

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MATTIEU BURKS,

Plaintiff,

**DECLARATION OF
CASSANDRA SAVAGE**

-against-

9:16-CV-759

CORRECTION OFFICER CHAD STICKNEY;
CORRECTION OFFICER NOLAN; CORRECTION OFFICER SMITH; CORRECTION OFFICER EDWARD L. PEPPER; SERGEANT JOHN MARK CROSS; CORRECTION OFFICER DAVID J. CHAMBERLAIN; CORRECTION OFFICER JOSHUA R. WOOD; JOHN DOE "E" BLOCK SERGEANT; SUPINTENDENT STEVEN RACETTE, SUPERINTENDENT MICHAEL KIRKPATRCK, JOHN DOE SUPERVISOR IN CHARGE OF SECURITY #1, JOHN DOE CORRECTION OFFICERS ##1-25,

FJS/DEP

Defendants.

Cassandra Savage, on the date noted below and pursuant to § 1746 of title 28 of the United States Code, declares the following to be true and correct under penalty of perjury under the laws of the United States of America:

1. I am an employee of the New York State Department of Corrections and Community Supervision ("DOCCS") as an Office Assistant 1 in the legal office at Clinton Correctional Facility ("Clinton"), a position I have held for nearly two and a half years.

2. As Office Assistant 1, I am responsible for a number of administrative duties, including notifying the New York State Office of the Attorney General when a lawsuit has been served on members of Clinton's staff.

3. Although I am not a party to the above referenced litigation, I submit this Declaration in opposition to plaintiff's motion for sanctions on defendants for their conduct in discovery. Dkt. No. 81.

4. This Declaration is based on my knowledge of procedures employed at Clinton, my personal recollection, and my review of records maintained in the regular course of business at Clinton.

5. I understand that plaintiff's motion for sanctions is based, in part, on the allegation that Assistant Attorney General Denise Buckley ("AAG Buckley") identified "Luke Nolan" as the "Correction Officer Nolan" named in the caption in plaintiff's Complaint.

6. The Summons and Complaint in the instant litigation was received at Clinton on August 23, 2016. A copy of the Summons and Complaint is attached hereto as **Exhibit A**.

7. The Summons and Complaint named seven defendants plus several "John Doe Defendants," including "Correction Officer Nolan". Id.

8. There are approximately 1,400 employees at Clinton.

9. Because the lawsuit did not provide a first name for Correction Officer Nolan, and more than one Correction Officer by surname of Nolan was employed at Clinton, inquiries were made within Clinton to determine which Officer Nolan was the officer named in the lawsuit.

10. The inquiries made internally within Clinton indicated that Darwin Nolan, who had been employed at Clinton as a Correction Officer during the time frame at issue in the Complaint, was the Correction Officer Nolan named in the lawsuit.

11. AAG Buckley did not participate in the determination that Darwin Nolan was the Correction Officer Nolan named in the lawsuit.

12. On August 30, 2016, I e-mailed AAG Buckley a copy of the Summons and Complaint to alert her to the fact that we had received legal proceedings. A copy of that e-mail is attached hereto as **Exhibit B**.

13. When a lawsuit naming a member of Clinton's staff is served at Clinton, the New York State Office of the Attorney General ("OAG") plays no role in that suit until a written request for representation issues from DOCCS to the OAG.

14. AAG Buckley replied by e-mail the same day and asked me to for the original Summons and Complaint along with a request for representation and details about how and when the Summons and Complaint was received. *Id.*

15. On September 2, 2016, I e-mailed AAG and advised her that I was mailing out the written requests for representation that day and that there would be a delay in the receipt of the request for representation letter on behalf of Sergeant Darwin Nolan due to difficulty within the facility determining which person should be served. A copy of that e-mail is attached hereto as **Exhibit C**.

16. Attached hereto as **Exhibit D** is my letter to Franklin Correctional Facility forwarding the Summons and Complaint for Sergeant Nolan's attention.

17. The determination that Darwin Nolan was the “Correction Officer Nolan” named in the Complaint was made in good faith based on inquiries made internally at Clinton and AAG Buckley had nothing to do with that determination.

Dated: November 9, 2017
Dannemora, New York

s/J Cassandra Savage
Cassandra Savage